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## Request for Policies and Procedures Related to Officer -Involved Shootings and Other Use of Force Incidents.

1 message

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Tue, Dec 27, 2016 at 10:12 AM

I have attached our Policies. The Officer Involved Shooting Policy was updated on July 2003. The Use Of Force Policy was updated on August 2015.

The officers when hired review all the policies or when changes are made to them . The use of force policy is covered when firearms training is conducted.

If You Have Any Questions please feel free to contact me

Thank You ,

Captain Ricky Villalobos

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# SILVER CITY POLICE DEPARTMENT

Title: USE OF FORCE

Procedure: 2.000

Date Issued: March 15, 2011

Revised: August 11, 2015

Approved: Ed Reynolds Chief of Police

Date: 08/11/15

## I PURPOSE

The use of force is a serious action and when deciding whether or not to use force, officers shall act within the boundaries established by the United States and New Mexico Constitutions, relevant federal, state and local laws and precedents. This use of force policy and all other relevant and related Silver City Police Department policies, best practices and training, are intended to establish guidelines that when combined with sound ethics and good judgment, provide for lawful application and use of force.

## II POLICY

An Officer shall use only that degree of force that is objectively reasonable under the circumstances and only to effect lawful objectives. An Officer may use deadly force in accordance with this policy and the law, and when all reasonable alternatives appear impracticable or objectively unreasonable.

## III APPLICABILITY

This policy shall apply to all employees and volunteers of the Silver City Police Department who under the authority or color of law, are authorized or permitted to use force against another person for lawful purposes.

## IV REFERENCES

Amendments I V, XIV, *United States Constitution*; Article II, Sections 10 and 18, *New Mexico Constitution*; *Graham v. Connor*, 490 U.S. 386 (1989); *Tennessee v. Garner*, 471 U.S. 1 (1985); *Quezada v. County of Bernalillo*, 944 F.2d 710 (10th Cir. 1991); *Casey v. City of Federal Heights, C.A. 10 (Colo.)*, 2007; *Use of Force Policy (Rev. 3-10), Denver (Co) Police Department*; *Deadly Force Policy (7/2004), United States Department of Justice*; *Use of Force Policy (7/2009), Los Angeles Police Department*; *Model Policy on Use of Force, International Association of Chiefs of Police*; "Use-of-force policies and training: A reasoned approach (Part I and II)", *Thomas D. Petrowski, J. D., F.B.I. Law Enforcement Bulletin*, Nov. 2002 Issue; *National Tactical Officer's Association Training Materials (2007)*; *Standards ADM.05.01-ADM.05.04, New Mexico Law Enforcement Standards Council*

## DEFINITIONS

- A. **Deadly force:** is force that has a substantial likelihood of causing death or serious bodily injury
- B. **Less-lethal force:** any force other than deadly force which is designed for or used in a manner so that it creates a lower potential for causing death or great bodily injury than conventional police tactics or traditional deadly force weapons
- C. **Imminent/immediate threat:** for the purposes of this policy, the words imminent and immediate are synonymous. "In relation to homicide in self-defense, this term (imminent danger) means immediate danger, such as must be immediately met" (Black's Law Dictionary). Immediate/imminent means that an action is pending with little or no time spacing. A subject can pose an imminent threat even if he is not at that very moment pointing a weapon at an Officer or other person. For example, an imminent threat may exist if officers have probable cause to believe any of the following (these examples are not all inclusive):
1. The subject possess a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against an Officer or other person; or,
  2. When a violent felony suspect is armed with a firearm and running to gain the tactical advantage of cover; or,
  3. A subject with the capability of inflicting death or great bodily injury – or otherwise incapacitating an Officer or others – without a deadly weapon, is demonstrating an intention to do so; or,
  4. The subject is attempting to escape from the vicinity of a violent confrontation in which the subject inflicted or threatened the infliction of death or great bodily injury, and if the subject were allowed to escape, it would be reasonable to believe that he would continue to pose a danger to Offices or others.
- D. **Reasonable belief:** when facts or circumstances the Officer reasonably believes, knows, or should know are such as to cause an ordinary and prudent Officer to act or think in a similar way under similar circumstances
- E. **Probable cause:** facts and circumstances that would lead a reasonable person to believe that a crime is being committed, has been committed or will be committed.
- F. **Objectively reasonable:** the legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the U.S. Constitution (see *Graham v. Connor*, 490 U.S. 386 (1989)). According to *Graham* the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. As in other Fourth Amendment contexts, however the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the Officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. Therefore, the Silver City Police Department examines all uses of force from an objective standard, rather than a subjective standard.

- G. **Great bodily harm / injury, serious physical injury or serious bodily harm :** an injury to a person which creates a high probability of death, results in serious disfigurement, results in loss of any member or organ of the body or results in permanent or prolonged impairment of the use of any member or organ of the body
- H. **Suspect/subject:** a suspect is defined as someone who is the target of a criminal action or investigation (i.e. a battery suspect). A subject is defined as any other person that is the target of a law enforcement action and is not a suspect (i. e. an armed / unarmed suicidal subject). Depending on the actions of a "subject", he or she can become a "suspect" if they commit a criminal act.
- I. **Deadly weapon:** means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.
- J. **Less-lethal weapon:** is any weapon that when used against another living being, and in accordance with department approved training, has less of a potential of causing great bodily harm or death when compared to a deadly weapon. Some less-lethal weapons can be used as a deadly weapon when target areas such as the high chest, neck, head or groin are intentionally targeted by the operator.
- K. **Weapon of opportunity:** is any instrument that could be used by an Officer to defend themselves or another against a violent attack. A weapon of opportunity could include, but is not limited to: a stick, vehicle, hammer, glass, bottle, pipe, flashlight, sand, a rock, gravity, a knife, a rope, etc.
- L. **Excessive Force:** is the application of more force than is reasonably necessary at the time; too much force could be applied or the correct amount of force could be applied but for too long of a period of time

## VI PROCEDURES

The use of force, especially force likely to result in serious bodily injury or death (including a firearm), is a serious action. When deciding whether to use force to respond to a perceived threat, Officers shall act within the boundaries of the United States and New Mexico Constitutions and laws, relevant case law – both federal and state, sound ethics, good judgement, this use of force policy or “continuum”, and all other relevant Silver City Police Department policies, practices and training.

With these values in mind, an Officer shall use only that degree of force that is objectively reasonable under the circumstances and only to effect lawful objectives. An Officer may use deadly force in accordance with this policy and the law, and when all reasonable alternatives appear impracticable or objectively unreasonable.

- A. Officers should ensure that they do not engage in unreasonable actions that precipitate the use of force as a result of tactical, strategic, and procedural errors that place themselves or others in jeopardy. Additionally, when considering the safety of others, Officers will place the following types of persons/property in the following order of priority (also known as "The Priority of Life"):



- a. Hostages /innocent bystanders / other non-law enforcement first responders
- b. Law enforcement personnel
- c. Suspect / subject
- d. Property

- B. As an example to clarify The Priority of Life ranking, in general Officers should not make decisions or take courses of action which would tend to place the safety of a suspect / subject above that of themselves or another law enforcement officer, innocent bystanders, other first responders, or hostages.

When applying any type of force in an objectively reasonable manner, an Officer must first determine the specific facts and circumstances that are available to him about the particular case before him.

- A. The law understands that often times Officers are asked to make split second decisions that are tense, uncertain and rapidly evolving. Personnel within this department should make themselves familiar with this policy and the law surrounding uses of force consistent with their training. So to clarify, it is not expected that an Officer will think about this policy and all the factors listed within this policy prior to using force during an actual event, but rather the Officer should have a firm understanding of what factors should be considered when using force long before the Officer is placed in a position to use force. **Knowledge is key, and it is the desire of this agency for each employee that is affected by this policy to thoroughly understand use of force law and this policy, so that when it is time to use force against another, that they do so in a manner that is consistent with the law and this policy, and without hesitation if needed.** Determining whether the force used to effect a particular seizure is reasonable under the Fourth Amendment require a carefully balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake. The three main factors that an Officer should consider when using force are:

- 1. **The severity of the crime at issue,**
- 2. **Whether the suspect/subject poses an immediate threat to the safety of other law enforcement personnel or others, and**
- 3. **Whether the suspect / subject is actively resisting arrest or attempting to evade arrest by flight.**

- B. When determining the severity level of the crime, the Officer should consider the following (this list is not all inclusive):

- 1. Is the crime a crime of violence or a property crime?
- 2. Was anyone harmed during the crime? If so, was it to the level of great bodily injury or death or was it a minor injury?
- 3. Was the suspect armed when he or she committed the crime?
- 4. Is the crime classified as a misdemeanor or felony?

- C. When determining whether or not the suspect poses an immediate / imminent threat to the safety

of Officers or others, the Officer should consider the following (this list is not all inclusive) :

1. Is the suspect / subject currently believed to be armed, and if so, are they currently threatening themselves or others with the weapon or have they done so in the immediate past?
  2. Is the suspect / subject in a confrontational stance or showing other signs of aggression towards an Officer or citizen?
  3. Is the suspect / subject refusing to comply with lawful commands from the Officer? (i.e. Drop the weapon; do not move; show me your hands, etc.)
  4. Is the suspect / subject verbalizing threats to the Officer or others?
  5. Will the application of force by the Officer in order to overcome the resistance or level of force posed by the suspect / subject unreasonably endanger another citizen or Officer given the circumstances?
- D. When determining whether or not the suspect / subject is actively resisting arrest or attempting to evade arrest by flight, the Officer should analyze the following (this list is not all inclusive) :
1. Is the suspect /subject resisting or evading arrest by non-compliance with lawful commands from the officer?
  2. Is the suspect / subject resisting apprehension or arrest by using physical force?
  3. Is the suspect / subject evading arrest by walking away? Running away? Fleeing in a motor vehicle or other mode of transportation?
  4. Is the danger to the public and other Officers greater if the suspect / subject remains uncaptured as a result of their resistance or flight or is there a greater danger to other Officers and / or the public if the Officer uses the proposed level of force to apprehend the suspect / subject?

E. Numbers, Skill and Size Disparities

1. Occasionally an Officer will be confronted during an encounter by more than one adversary, by an adversary who has been trained to a skill level in combat that places the Officer at a disadvantage, or the Officer may be confronted by an individual that is considerably larger in size or stronger than the Officer. Any of these situations can place the Officer in a position of having a significant tactical disadvantage that may warrant the Officer using a higher level of force than would have been necessary had one or more of these disparities not been present.

F. Managing Risk / Officer Created Jeopardy

1. Officer created jeopardy occurs when an Officer places himself into a position that requires the Officer to use force, and had the Officer not placed himself into that position or into a position of tactical disadvantage, the force required would not have been used or a less intrusive level of force could have been used .
2. Examples of Officer created jeopardy include but are not limited to standing in front of a moving motor vehicle that is moving towards the officer, that is occupied by a suspect of a criminal act, when there was ample time to move out of the way, but yet the Officer chose to stand his

ground and fire into the vehicle striking the suspect and killing him. Another example of Officer created jeopardy would be responding to an armed suicidal subject call at a residence and running into the residence to confront the armed subject instead of trying to deescalate the situation through negotiations from a position of tactical advantage.

G. Moving from a Show of Force to a Use of Force or Moving From One Type of Force to another Type of Force

1. Nothing in this policy prevents an Officer from transitioning from one level or force (i.e. the use of pepper spray as an example) to another level of force (i.e. deadly force) if the situation dictates such a transition. There is no requirement that Officer "escalate" through all levels of force, from the least intrusive level of force to the most intrusive level of force, in order to reach the desired level of force for the particular situation.
2. An Officer may also be required to transition between a show of force to a use of force with the same or different weapon system in a very short time frame.

H. Types of Less-lethal systems Utilized vs. Level of Threat / Resistance

1. Listed below are the various systems / techniques that the members of the Silver City Police Department may be trained to operate / utilize when dealing with non-cooperative or violent suspects / subjects. If reasonable to do so, and if it would not place the Officer or a citizen at a tactical disadvantage, the Officer should give a warning prior to deploying any type of less-lethal device / system.

a. System Type - Empty Hand Techniques

i. Empty hand techniques include the following (not all inclusive):

- (a) Escort position
- (b) Wrist locks / Twist locks
- (c) Pressure points
- (d) Knee / elbow impact counters
- (e) Armbar takedowns
- (f) Impact takedowns
- (g) Ground control techniques
- (h) Kicking countermeasures
- (i) Open hand impact techniques

ii. Empty hand techniques are generally used to overcome the following types of resistance or during the following types of situations, realizing that the appropriate empty hand technique must be used for the appropriate level of resistance in accordance with department training guidelines (this list is not all inclusive):

- (a) To overcome passive resistance by a subject to lawful arrest or detention by an Officer.

- (b) To overcome active resistance by a subject to lawful authority or when subject to arrest by an Officer.
  - (c) To gain custody and/or-control of subject who unlawfully flees or attempts to evade an Officer in the lawful performance of their duty.
  - (d) When a suspect or subject verbally or physically threatens an Officer when the suspect has the means and ability to complete an assault.
  - (e) Against a suspect or subject that is assaulting an Officer or citizen with personal weapons (hands, feet, teeth, etc.)
- iii. System Type - Chemical Munitions (Orthochlorbenzalmalononitrile (a.k.a . CS) Oleoresin capsicum (a.k.a. OC))
- (a) OC and / or CS can be deployed in the following ways :
    - (1) Pyrotechnic combustion
    - (2) Blast dispersion
    - (3) Expulsion
    - (4) Liquid projectile
    - (5) Powder projectile
    - (6) Liquid aerosol
    - (7) Fog
  - (b) OC and / or CS are generally used to overcome the following types of resistance and / or during the following types of situations (this list is not all inclusive):
    - (1) As a show of force
    - (2) When confronted with assaultive behavior (words or actions)
    - (3) If attempting to apprehend a suspect / subject that is unlawfully fleeing from the Officer
    - (4) To overcome physical active resistance to a lawful arrest
    - (5) As a means of expelling a suspect / subject from a fortified or barricaded position (i.e. criminal barricade or armed mentally ill subject)
    - (6) As a means of detection within a structure
    - (7) To control or subdue a threatening animal

iv. System Type – NEURO – MUSCULAR INCAPACITATION

i.e. Taser) **SCPD POLICY 2.005**

v. System Type - Expandable Baton

(a) Expandable Batons can be deployed in the following ways:

(1) In a swinging motion in the expanded position

(b) Expandable Baton is generally used to overcome the following types of resistance and / or during the following types of situations (this list is not all inclusive):

(1) As a show of force to counter a subject who verbally or physically threatens an Officer or other citizen, when the suspect has the opportunity and ability to complete an assault.

(2) Against a suspect or subject that is assaulting an Officer or citizen with personal weapons (hands, feet, teeth, etc.)

(3) To control or counter an aggressive, attacking animal.

I. Deadly Force and Weapons of Opportunity

1. Generally deadly force can be used by an Officer of this agency during the following types of situations (this list is not all inclusive):

a. When a suspect or subject threatens an Officer or a citizen with a deadly weapon and the Officer has probable cause to believe that he or the citizen are in imminent danger of serious bodily harm or death as a result of the posed threat.

b. When an Officer has probable cause to believe a suspect is attempting to escape from the vicinity of a violent confrontation in which the suspect inflicted or threatened the infliction of death or great bodily injury, and if the suspect were allowed to escape, it would be reasonable to believe that he would continue to pose a danger to Officers or others

c. To kill a dangerous animal or one that humane treatment requires its removal from further suffering and alternative methods of disposition are impractical and when the use of such force will not unreasonably endanger another person.

d. Imminent danger which may require the use of deadly force may also exist if an Officer has probable cause to believe that:

i. 1) the subject poses a threat of serious physical injury **and**

ii. 2) the Officer has probable cause to believe any of the following:

(a) When a suspect possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against an

Officer or other person

- (b) When a violent felony suspect is armed with a firearm and is moving to gain the tactical advantage of cover
  - (c) When a suspect(s) with the capability of inflicting death or great bodily injury, or otherwise incapacitating an Officer, without a deadly weapon, is demonstrating an intention to do so
  - e. If reasonable to do so, and if it would not place the Officer or a citizen at a tactical disadvantage, and if time allows, the Officer should give a warning prior to deploying deadly force. An example of a warning could be, "Police. Stop or I will shoot" or "Drop the knife / gun or I will shoot".
  - f. In some instances it may be appropriate for an Officer to utilize a weapon of opportunity to defend himself or others. If an Officer becomes disarmed (loss of less-lethal tool or approved firearm), or if an Officer cannot use an approved weapon because of injury or for other legitimate reasons, or if a weapon of opportunity is the most reasonable response, an Officer is authorized to use a weapon of opportunity to defend himself or another as long as the weapon used is an objectively reasonable use of force, given the threat posed by the suspect /subject.
  - g. Officers are not authorized to fire "warning" shots. If it is objectively reasonable for an Officer to use deadly force to protect himself or another, then the Officer should apply the force required at that time.
- J. Use of Force Reporting
- 1. Every time an Officer of this department does any one or more of the following actions, a use of force report will be completed.
    - a. A show of force, with a lethal weapon, less-lethal weapon or weapon of opportunity that is intended to control a subject's behavior
    - b. A deployment of force, with a lethal weapon, less-lethal weapon, a weapon of opportunity, or with an empty hand technique
  - 2. The mere act of hand cuffing or placing a subject /suspect in handcuffs, leg irons or other approved department restraints is not considered a use of force that would require a reporting action, unless the approved restraint device was used in conjunction with an empty hand technique such as a "cuff grab or drag" or using the restraint device as a weapon. Additionally, escorting a compliant subject or arrestee is also not considered a use of force.
  - 3. The use of force report will be completed and forwarded to the employees' immediate supervisor prior to the end of his shift.
  - 4. Within three (3) business days the immediate supervisor will review the use of force report for accuracy and to ensure that the employee utilized force in accordance with department policy and agency training protocols. Once the immediate supervisor has reviewed the use of force report he will initial if he concurs with the Officers actions or will initial if he does not concur with the Officers actions. The immediate supervisor will then forward the use of force report to be reviewed by a reviewing officer. The reviewing officer will also concur or not concur with the Officer's actions as outlined in the Use of Force Report. After the immediate supervisor and the reviewing officer have initialed on the use of force report, they will prepare a memorandum and

forward it to the Division Commander evaluating the Officer's use of force. The Chief of Police, division commander and immediate supervisor will review the use of force report.

5. If any Officer with this department witnesses another law enforcement officer utilizing force that is a violation of the law, he or she will immediately intervene to stop the unlawful application of force. Additionally, it is that Officer's duty to report to his immediate supervisor any acts that he or she witnesses that would constitute an unlawful application of force by any law enforcement officer.
6. At the direction of the Chief of Police or his designee, if an Officer utilizes force that results in serious physical injury or death, that Officer may be removed from line duties and placed on administrative leave or an alternative assignment, pending an investigation of that particular use of force.
7. Once every six calendar months the use of force instructor (s) for the agency will review all of the compiled use of force reports for use of force, trends, short comings and for training purposes. If the review panel finds training deficiencies or policy failure, those findings will be reported to the Chief of Police.

#### K. Use of Force Training

1. In addition to any required NMLEA training on use of force, every Officer with this agency will be trained on this policy in its entirety every two years by a use of force instructor within the agency, and in the basic academy prior to being issued an approved firearm.
2. Every Officer within the department will be provided a copy of this policy prior to being issued a department weapon.
3. Any formal use of force training or remedial use of force training will be documented and cataloged in accordance with this agency's policy on training documentation.

*This policy statement and the procedures there under are intended for department use only. The policies, procedures, and regulations are for internal agency administrative purposes and are not intended to create any higher legal standard of care or liability in evidentiary sense than is created by law. Violations of internal agency policies, procedures, regulations, or rules form the basis for disciplinary action by the agency. Violations of law form the basis for civil and/or criminal sanctions to be determined in the proper judicial setting, not through the administrative procedures of the agency.*



## SILVER CITY POLICE DEPARTMENT

Title: **POST SHOOTING / TRAUMATIC INCIDENT INVOLVING DEATH OR INJURY**  
Procedure: 2.001

Date Issued: July 24, 2003

Revised:

### PURPOSE:

It is the policy of the Silver City Police Department to provide guidelines that shall be uniformly applied following any officer-involved shooting or use of force incident that has resulted in death or serious physical injury, in order to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder.

4.

### POLICY:

The purpose of this policy shall pertain to the use of firearms only. Law enforcement duties can often expose officers and support personnel to mentally painful and highly stressful situations that cannot be resolved through normal stress coping mechanisms. Unless adequately treated, these situations can cause disabling emotional and physical problems. It has been found that officer-involved shootings resulting in death or serious bodily injury to a citizen or a fellow officer may precipitate such stress disorders. It is the responsibility of the Silver City Police Department to provide personnel with information on stress disorders and to guide and assist in their deterrence. Therefore, it shall be the policy of the Silver City Police Department to take immediate action after such incidents to safeguard the continued good mental health of all affected personnel.

### **A. DEFINITIONS:**

1. **Post-Traumatic Stress Disorder:** An anxiety disorder that can result from exposure to short term severe stress, or the long-term buildup of repetitive and prolonged milder stress.

2. **Officer Involved Shooting Incident:** An incident where shooting causes death or serious physical injury to an officer or other person.

3. **Officer Involved Traumatic Incident:** An incident where the use of force, (other than firearm) causes death or serious physical injury to an officer or another person.

### PROCEDURES:

#### **B. HANDLING OF THE OFFICERS AT THE SCENE**

1. During any period where the involved officer(s) is required to remain on the scene, but has no immediate duties to fulfill, the officer(s) should be taken to a quiet area away from the scene of the incident. A peer counselor, Chaplain, other supportive friend or officer should remain with the officer(s), but should be advised not to discuss details of the incident.

2. The supervisor should arrange for the officer(s) directly involved in the incident to leave the scene as soon as possible, and be taken to quiet, secure setting.

3. Where possible, the supervisor shall briefly meet with the involved officer(s).

No stimulants or depressants should be given to the officer(s) unless administered by medical personnel.

Only minimal, preliminary questions should be asked about the incident. The officer(s) should be advised that a more detailed debriefing would be conducted at a later time.

Any standard investigations that will occur concerning the incident should be discussed with the officer(s).

Drug testing of the officer will be considered.

The officer(s) should be advised that they might seek legal counsel.

The officer(s) should be advised not to discuss the incident with anyone except a personal or Department attorney, union representative, or departmental investigator, until the conclusion of the preliminary investigation.

4. The supervisor shall require that the officer's duty weapon be taken for analysis. When the duty weapon is taken, the supervisor shall: Take custody of the officer's weapon in a discrete manner; and advise the officer that it will be returned or replaced at a later time, as appropriate.

#### **C. POST-INCIDENT PROCEDURES**

1. All officers directly involved in the shooting or traumatic incident will be required to contact a Department designated specialist for counseling and evaluation as soon as practical after the incident. Other affected support personnel should also be encouraged to contact such specialists after a shooting or traumatic incident. After the counseling sessions, the specialist shall advise the Department:

Whether it would be in the officers' best interest to be placed on administrative leave or administrative assignment, and for how long;

issues regarding the officer's physical and mental fitness for duty; and

what will be the best-continued course of counseling.

2. If the officer disagrees with the initial Department designated specialist he

may seek an additional opinion at Department expense.

3. The Department strongly encourages the families of the involved officers to take advantage of available counseling services. Affected employees may refer themselves or be referred to the Employee Assistance Program (EAP).

4. The Department should brief other agency members concerning the incident so that rumors are kept to a minimum. Agency members are encouraged to show the involved officer(s) their concern.

5. All personnel involved in a shooting or traumatic incident should be advised that they are not permitted to speak with the media about the incident. Officers shall refer inquiries from the media to a designated agency spokesperson.

6. In order to protect against prank or abusive calls, officers should be advised to have phone calls answered by another person for several days should their names be released to the public.

#### **D. DAILY STRESS RECOGNITION**

1. As post-traumatic stress disorders may not arise immediately, or the officer(s) may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit members for symptoms of the disorder.

2. The Chief of Police or his designee may order an officer to seek assistance or counseling from a mental health specialist upon a reasonable belief that stress may be disrupting the officer's job performance.

## SILVER CITY POLICE DEPARTMENT

Title: **LIMITS OF AUTHORITY**

Procedure: 2.002

Date Issued: August 11, 2003

Revised:

### **PURPOSE:**

To outline the limits of an officer's authority.

To consider appropriate alternatives to arrest and confinement.

### **POLICY:**

Officers must be aware of the limits of their authority and shall not exceed them. Officers must ensure that an individual's constitutional guarantees are protected.

Discretionary power is the power of free decision, or latitude of choice within certain legal bounds. When this power is poorly exercised, discretionary power may be viewed by the public as favoritism, bias or corruption. It is imperative that officers consider the goals and objectives of the Department, and the ethical code of conduct, when exercising discretionary power.

Officers are encouraged to use discretion when their authority allows them to choose between possible alternatives of enforcement action.

### **PROCEDURE:**

#### **A. LIMITS OF AUTHORITY**

1. The Federal Constitution, State Constitution and State Law define the scope and limits of law enforcement authority as it pertains to the enforcement of laws, statutes and ordinances.
2. State Law grants the authority to municipalities to create and define police powers.
3. The municipal code of the Town establishes the Silver City Police

Department and the powers and duties of its officers.

#### **B. PROTECTION OF CONSTITUTIONAL RIGHTS**

1. In order to assure compliance with constitutional requirements, all officers must advise suspects of their constitutional rights pursuant to Miranda during custodial interviews. This process specifically outlines that the statement is being given without coercion and is of a voluntary nature, and that the individual has been apprised of the appropriate constitutional rights. It is expressly recognized that there are circumstances where the use of a written Waiver of Rights form is either impractical or unrealistic.

2. In the event of an arrest, state laws governing the time elements of when an arrested individual must appear before a magistrate will be adhered to.

3. In order to assure compliance with constitutional requirements regarding rights to counsel officers will earnestly protect a suspect's right to counsel.

4. In an effort to control prejudicial pretrial publicity, authorized officers should seek the cooperation and advice of the Prosecutors Office before issuing news releases in major investigations.

#### **C. ALTERNATIVES TO ARREST AND DISCRETION**

1. Officers are expected to use discretion in their authority in compliance with law, public safety, in furtherance of

Department goals and objectives, and in compliance with the Police Code of Ethics.

2. When confronted with situations involving minor traffic and ordinance violations, Officers should examine possible alternatives to arrest.
3. Enforcement for minor violations will be discretionary with the officer. Enforcement may range from a verbal warning to a written complaint and arrest.
4. Discretion as to police action in matters between private citizens will require that the totality of the circumstances surrounding the incident be evaluated and possible alternatives to arrest and confinement be considered.
5. Officers should be familiar with the procedure for issuance of all forms of written complaints, when circumstances allow for alternatives to pre-arraignment confinement.
6. The severity of enforcement action or Officer inaction shall not be influenced by malice, vengeance, or prejudice based upon race, sex, ethnic background, religious belief or political affiliation, nor shall preferential treatment be extended on any of the same conditions.
7. Police Discretion concerning enforcement of criminal law violations shall be construed to be narrow with enforcement action being taken in most cases.